

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**DAWN KNIGHT, o/b/o  
J.K., a minor,**

**Plaintiff,**

**v.**

**No. CIV-11-0817 LAM**

**CAROLYN W. COLVIN, Acting Commissioner  
of the Social Security Administration,**

**Defendant.**

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEY'S FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on Plaintiff's *Motion for Attorney Fees and Costs Pursuant to Equal Access to Justice Act, With Memorandum in Support* (Doc. 22) in the amount of \$7,608.00 for attorney's fees and \$350.00 for filing fees, filed on February 5, 2013. In response (Doc. 23), the Acting Commissioner does not object to Plaintiff's request for attorney's and filing fees in these amounts. The Court, having considered the submissions of counsel, the record in this case, and the relevant law, and being otherwise fully advised **FINDS** that Plaintiff's motion is well-taken and will be **GRANTED**.

**WHEREFORE, IT IS HEREBY ORDERED** that Plaintiff's *Motion for Attorney Fees and Costs Pursuant to Equal Access to Justice Act, With Memorandum in Support* (Doc. 22) is **GRANTED**, and Plaintiff Dawn Knight, on behalf of "J.S.K.," a minor child, is authorized to receive **\$7,958.00** for payment to Plaintiff's counsel for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

**IT IS FURTHER ORDERED** that, if Plaintiff's counsel is ultimately granted attorney's fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Plaintiff pursuant to *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002) ("Congress harmonized fees payable by the Government under EAJA with fees payable under § 406(b) out of the claimant's past-due Social Security benefits in this manner: Fee awards may be made under both prescriptions, but the claimant's attorney must 'refun[d] to the claimant the amount of the smaller fee.'" (citation omitted)).

**IT IS SO ORDERED.**

  
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**LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**